

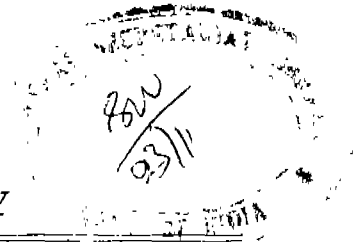


भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 2
PART II—Section 2

प्राधिकार से प्रकाशित
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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके ।

Separate paging is given to this Part in order that it may be filed
as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on the 12th May, 1989:—

BILL No. 48 OF 1989

A Bill to provide for the levy and collection of a duty on the inheritance of wealth.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Wealth (Inheritance) Duty Act, 1989.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

(a) “accountable person” or “person accountable” means the person accountable for duty chargeable under this Act, and includes every person in respect of whom any proceeding under this Act has been taken for the assessment of the net wealth passing on the death of a deceased;

Short
title,
extent
and com-
mence-
ment.

Defini-
tions.

(b) "affidavit of valuation" means the affidavit of valuation filed under section 19-I of the Court-fees Act, 1870, in connection with an application for the grant of probate or letters of administration under that section;

7 of 1870.

(c) "deceased person" or "the deceased" means a person dying after the commencement of this Act;

(d) "duty" or "wealth (inheritance) duty" means the wealth (inheritance) duty chargeable under this Act;

(e) "net wealth" means the amount by which the aggregate value computed in accordance with the provisions of this Act, of—

(i) all assets, wherever located, belonging to the deceased on the date of his death;

(ii) the assets required to be included in his net wealth as on that date under this Act; and

(iii) the interest of the deceased in the coparcenary property of any Hindu undivided family of which he was a member,

and passing on his death, is in excess of the aggregate value of all debts so passing, other than—

(A) debts which under section 7 are not to be taken into account;

(B) debts which are secured on, or which have been incurred in relation to, any property in respect of which duty is not chargeable under this Act.

Explanation.—For the purposes of this clause,—

(i) the interest of the deceased in the coparcenary property of any Hindu undivided family of which he was a member shall be deemed to be the share in the coparcenary property that would have been allotted to the deceased if a partition of such property had taken place immediately before his death;

(ii) "passing on the death" includes passing either immediately on the death or after any interval either certainly or contingently and either originally or by way of substitutive limitation, and "on the death" includes "at a period ascertainable only by reference to the death";

(iii) "a building or part thereof", referred to in clause (ii), or clause (iia) or clause (iib) of section 27 of the Income-tax Act, 1961 shall be deemed to be includible in the net wealth passing on the death of the deceased if he had been deemed under the said clause to be the owner of that building or part thereof;

43 of 1961.

(f) "prescribed" means prescribed by rules made under this Act;

(g) "Wealth-tax Act" means the Wealth-tax Act, 1957;

27 of 1957.

(h) all other words and expressions used herein but not defined and defined in the Wealth-tax Act shall have the meanings respectively assigned to them in that Act.

3. The provisions of this Act shall not apply to a case where the net wealth of a deceased person on the valuation date under the Wealth-tax Act immediately preceding the date of his death was such that no wealth-tax had been payable.

Act not to apply in certain cases.

Explanation.—For the purposes of this section, “net wealth” means net wealth computed under the Wealth-tax Act.

CHAPTER II

IMPOSITION OF WEALTH (INHERITANCE) DUTY

4. In the case of every person dying after the commencement of this Act, there shall, save as hereinafter expressly provided, be levied and paid upon the net wealth a duty called “wealth (inheritance) duty” at the rate or rates specified in Schedule I.

Levy of wealth (inheritance) duty.

5. (1) In computing the net wealth of a deceased, there shall be included, as belonging to that deceased—

Net wealth to include certain assets.

(a) the value of assets which on the date of his death are held—

(i) by the spouse of such deceased to whom such assets have been transferred by the deceased, directly or indirectly, otherwise than for adequate consideration or in connection with an agreement to live apart, or

(ii) by a minor child, not being a married daughter, of such deceased, to whom such assets have been transferred by the deceased, directly or indirectly, otherwise than for adequate consideration, or

(iii) by a person or association of person to whom such assets have been transferred by the deceased, directly or indirectly, otherwise than for adequate consideration for the immediate or deferred benefit of the deceased, his or her spouse or minor child (not being a married daughter) or both, or

(iv) by a person or association of persons to whom such assets have been transferred by the deceased otherwise than under an irrevocable transfer, or

(v) by the son's wife, or the son's minor child, of such deceased, to whom such assets have been transferred by the deceased, directly or indirectly, on or after the 1st day of June, 1973, otherwise than for adequate consideration, or

(vi) by a person or association of persons to whom such assets have been transferred by the deceased, directly or indirectly, on or after the 1st day of June, 1973, otherwise than for adequate consideration for the immediate or deferred benefit of the son's wife, or the son's minor child, of such deceased or both,

whether the assets referred to in any of the sub-clauses aforesaid are held in the form in which they were transferred or otherwise;

Provided that where the transfer of such assets or any part thereof is either chargeable to gift-tax under the Gift-tax Act, 1958, or is not chargeable under section 5 of that Act, for any assessment year commencing after the 31st day of March, 1964, but before the 1st day of April, 1972, the value of such assets or part thereof, as the case may be, shall not be included in computing the net wealth of the deceased;

(b) where the deceased was a partner in a firm or a member of an association of persons (not being a co-operative housing society) there shall be included as belonging to the deceased the value of his interest in the firm or association determined in the manner laid down in Schedule II:

Provided that where a minor is admitted to the benefits of a partnership in a firm, the value of the interest of such minor in the firm, determined in the manner specified above, shall be included in the net wealth of the deceased for the purposes of this Act, if it was so included or includible in his net wealth for the purposes of the Wealth-tax Act.

(2) Where, in the case of a deceased being a member of a Hindu undivided family, any property having been the separate property of the deceased has, at any time after the 31st day of December, 1969, been converted by the deceased into property belonging to the family through the act of impressing such separate property with the character of property belonging to the family or throwing it into the common stock of the family or been transferred by the deceased, directly or indirectly, to the family otherwise than for adequate consideration (the property so converted or transferred being hereinafter referred to as the converted property), then, notwithstanding anything contained in any other provision of this Act or in any other law for the time being in force, for the purpose of computing the net wealth of the deceased under this Act,—

(a) the deceased shall be deemed to have transferred the converted property, through the family, to the members of the family for being held by them jointly;

(b) the converted property or any part thereof shall be deemed to be assets belonging to the deceased;

(c) where the converted property has been the subject-matter of a partition (whether partial or total) amongst the members of the family, the converted property or any part thereof which is received by the spouse or minor child of the deceased on such partition shall be deemed to be assets transferred indirectly by the deceased to the spouse or minor child and the provisions of sub-section (1) shall, so far as may be, apply accordingly.

(3) Where the value of any assets is to be included in the net wealth of a deceased in accordance with clause (a) of sub-section (1) or sub-section (2), the provisions of section 6 shall apply in relation to such assets as if such assets were assets belonging to the deceased.

(4) Nothing contained in clause (a) of sub-section (1) shall apply to any such transfer as is referred to therein made by a deceased before the 1st day of April, 1956, and the value of any assets so transferred

shall not be included in the computation of his net wealth passing on his death.

(5) The value of any assets transferred under an irrevocable transfer shall be liable to be included in computing the net wealth of the transferor as and when the power to revoke arises to him.

(6) Where a gift of money from one person to another is made by means of entries in the books of account maintained by the person making the gift or by an individual or a Hindu undivided family or a firm or an association of persons or body of individuals with whom or which he has business or other relationship, the value of such gift shall be liable to be included in computing the net wealth of the person making the gift unless he proves to the satisfaction of the Assessing Officer that the money has actually been delivered to the other person at the time the entries were made.

(7) For the purposes of this Act, the holder of an impartible estate shall be deemed to be the individual owner of all the properties comprised in the estate.

(8) Where the deceased was a member of an association of persons, being a co-operative housing society, and a building or a part thereof was allotted or leased to him under a house building scheme of the society, the deceased shall, notwithstanding anything contained in this Act or any other law for the time being in force, be deemed to be the owner of such building or part and the value of such building or part shall be included in computing the net wealth of the deceased passing on his death; and, in determining the value of such building or part, the value of any outstanding instalments of the amount payable under such scheme by the deceased to the society towards the cost of such building or part and the land appurtenant thereto shall, whether the amount so payable is described as such or in any other manner in such scheme, be deducted as a debt owed by him in relation to such building or part.

Explanation.—For the purposes of this section,—

(a) the expression “transfer” includes any disposition, settlement, trust, covenant, agreement or arrangement;

(b) the expression “child” includes a step-child and an adopted child;

(c) the expression “irrevocable transfer” includes a transfer of assets which, by the terms of the instrument effecting it, is not revocable for a period exceeding six years or during the lifetime of the transferee, and under which the transferor derives no direct or indirect benefit, but does not include a transfer of assets if such instrument—

(i) contains any provision for the retransfer, directly or indirectly, of the whole or any part of the assets or income therefrom to the transferor, or

(ii) in any way gives the transferor a right to reassume power, directly or indirectly, over the whole or any part of the assets or income therefrom; and

(d) the expression "property" includes any interest in any property, movable or immovable, the proceeds of sale thereof and any money or investment for the time being representing the proceeds of sale thereof and where the property is converted into any other property by any method, such other property.

Exemptions in respect of certain assets.

6. (1) The provisions of section 5 of the Wealth-tax Act shall, so far as may be, apply for the purposes of this Act as they apply for the purposes of the Wealth-tax Act, subject to the modifications specified in sub-section (2).

(2) The modifications referred to in sub-section (1) shall be that in section 5 of the Wealth-tax Act,—

(a) the reference to "wealth-tax" shall be construed as a reference to "wealth (inheritance) duty";

(b) the references to "assessee" and "individual" shall be construed as a reference to "deceased";

(c) in sub-section (1),—

(i) clauses (ii), (via), (vii), (xvia), (xviib), (xviiba), (xviic), (xviid) and (xx) shall be omitted;

(ii) after clause (iv), the following clause shall be inserted, namely:—

"(iva) one house or part of a house belonging to the deceased which was exclusively meant to be used by him for residential purposes, subject to a maximum of five hundred thousand rupees in value:

Provided that where in computing the net wealth of the deceased, the exemption has been claimed under clause (iv), no exemption shall be allowed under this clause;";

(d) sub-section (2) shall be omitted.

Exclusion of assets and debts outside India.

7. In computing the net wealth of a deceased who was not a citizen of India or of a deceased not resident in India or resident but not ordinarily resident in India during the year ending on the date of death—

(i) the value of the assets and debts located outside India; and

(ii) the value of the assets in India represented by any loans or debts owing to the deceased in any case where the interest, if any, payable on such loans or debts is not to be included in the total income of the deceased under section 10 of the Income-tax Act;

shall not be taken into account.

Explanation 1.—A deceased shall be deemed not to be resident in India or resident but not ordinarily resident in India during the year ending on the date of his death if in respect of that year the deceased is not resident in India or resident but not ordinarily resident in India within the meaning of the Income-tax Act.

Explanation 2.—Where in the case of a deceased the value of an asset in India is represented by any debt owing to him, being any moneys to his credit in a Non-resident (External) Account, the interest is not to be in-

cluded in his total income under sub-clause (ii) of clause (4) of section 10 of the Income-tax Act, the provisions of this section shall, in relation to such asset, apply subject to the modification that the references in this section to a deceased not resident in India shall be construed as a reference to a person resident outside India as defined in clause (q) of section 2 of the Foreign Exchange Regulation Act, 1973.

46 of 1973.

8. (1) Subject to the provisions of sub-section (2), the value of any asset other than cash, for the purposes of this Act shall be its value as on the date of death determined in the manner laid down in Schedule II.

Value of assets, how to be determined.

(2) The value of a house belonging to the deceased and exclusively used by him for residential purposes throughout the period of twelve months immediately preceding the date of death, may, at the option of the accountable person, be taken to be the value determined in the manner laid down in Schedule II as on the valuation date for the purposes of wealth-tax next following the date on which the deceased became the owner of the house or the valuation date for the purposes of wealth-tax relevant to the assessment year commencing on the 1st day of April, 1971, whichever valuation date is later:

Provided that where more than one house belonging to the deceased was exclusively used by him for residential purposes, the provisions of this sub-section shall apply only in respect of one such house which the accountable person may, at his option, specify in this behalf in the return of net wealth.

Explanation.—For the purposes of this sub-section,—

(i) where the house has been constructed by the deceased, he shall be deemed to have become the owner thereof on the date on which the construction of such house was completed;

(ii) "house" includes a part of a house being an independent residential unit.

9. In computing the net wealth for the purposes of wealth (inheritance) duty, allowances shall be made—

(a) for funeral expenses of the deceased (not exceeding ten thousand rupees);

(b) for any amount of expenditure incurred on the medical expenses of the deceased which is due on the date of his death;

(c) for any amount of tax, duty or penalty levied on the deceased that is due on the date of his death;

(d) for any amount of expenditure incurred by way of court fees paid under any law in force in any State for obtaining probate, letter of administration or a succession certificate in respect of any property on which the wealth (inheritance) duty is leviable under this Act.

Funeral expenses, medical expenses, tax due and expenditure for obtaining probate, etc., to be allowed in computing net wealth.

Explanation.—For the purposes of this section, "funeral expenses" include all expenses which may have to be incurred in connection with the *sraddha* or *barsi* ceremonies (by whatever name called) of the deceased for a period of one year from the date of his death.

Allow-
ance for
quick
succe-
sion to
net
wealth.

10. Where the Chief Commissioner or the Director General, as the case may be, is satisfied that the wealth (inheritance) duty has become payable on the net wealth in respect of any asset passing upon the death of any person and that subsequently within five years the wealth (inheritance) duty has again become payable on the same asset or any part thereof passing on the death of the person to whom the asset passed on the first death, the amount of wealth (inheritance) duty payable on the second death in respect of the asset so passing shall be reduced as follows:

Where the second death occurs within one year of the first death, by fifty per cent.;

Where the second death occurs within two years of the first death, by forty per cent.;

Where the second death occurs within three years of the first death, by thirty per cent.;

Where the second death occurs within four years of the first death, by twenty per cent.;

Where the second death occurs within five years of the first death, by ten per cent.:

Provided that where the value, on which the wealth (inheritance) duty is payable, of the asset on the second death exceeds the value, on which the wealth (inheritance) duty was payable, of the asset on the first death, the latter value shall be substituted for the former for the purpose of calculating the amount of wealth (inheritance) duty on which the reduction under this section is to be calculated.

Explanation 1.—For the purposes of this section, every death shall be deemed to be second death in relation to the death immediately preceding.

Explanation 2.—In computing any period for the purposes of this section deaths occurring within a period of three months after the death of any person in respect of whose asset wealth (inheritance) duty has become payable, shall be treated as one death, and no wealth (inheritance) duty shall again be payable on the same asset by reason of the subsequent deaths occurring within the said period of three months.

CHAPTER III

WEALTH (INHERITANCE) DUTY AUTHORITIES

Wealth
(inheri-
tance)
duty
authori-
ties.

11. The income-tax authorities specified in section 116 of the Income-tax Act shall be the wealth (inheritance) duty authorities for the purposes of this Act and every such authority shall exercise the powers and perform the functions of a wealth (inheritance) duty authority under this Act in respect of the net wealth of any deceased person and for this purpose his jurisdiction under this Act shall be the same as he has under the Income-tax Act by virtue of orders or directions issued under section 120 of that Act (including orders or directions assigning concurrent jurisdiction) or under any other provision of that Act, as applicable to such deceased person.

Explanation.—For the purposes of this section, the wealth (inheritance) duty authority having jurisdiction in relation to a person who was not an assessee within the meaning of the Income-tax Act shall be the wealth (inheritance) duty authority having jurisdiction in respect of the area in which the deceased resided at the time of his death.

Control of
wealth
(inheritance)
duty
authorities.

12. Section 118 of the Income-tax Act and any notification issued thereunder shall apply in relation to the control of wealth (inheritance) duty authorities as they apply in relation to the control of the corresponding income-tax authorities except to the extent to which the Board may, by notification in the Official Gazette, otherwise direct in respect of any wealth (inheritance) duty authority.

Instruc-
tions to
subordi-
nate
authori-
ties.

13. (1) The Board may, from time to time, issue such orders, instructions and directions to other wealth (inheritance) duty authorities, as it may deem fit for the proper administration of this Act, and such authorities and all other persons employed in the execution of this Act shall observe and follow such orders, instructions and directions of the Board:

Provided that no such orders, instructions or directions shall be issued—

(a) so as to require any wealth (inheritance) duty authority to make a particular assessment or to dispose of a particular case in a particular manner; or

(b) so as to interfere with the discretion of the Deputy Commissioner (Appeals) or Commissioner (Appeals) in the exercise of his appellate functions.

(2) Without prejudice to the generality of the foregoing power,—

(a) the Board may, if it considers it necessary or expedient so to do, for the purpose of proper and efficient management of the work of assessment and collection of revenue, issue, from time to time (whether by way of relaxation of any of the provisions of sections 21, 23, 26 and 48 or otherwise), general or special orders in respect of any class of cases, setting forth directions or instructions (not being prejudicial to accountable persons) as to the guidelines, principles or procedures to be followed by other wealth (inheritance) duty authorities in the work relating to assessment or collection of revenue or the initiation of proceedings for the imposition of penalties and any such order may, if the Board is of opinion that it is necessary in the public interest so to do, be published and circulated in the prescribed manner for general information;

(b) the Board may, if it considers it desirable or expedient so to do for avoiding genuine hardship in any case or class of cases, by general or special order, authorise any wealth (inheritance) duty authority, not being a Deputy Commissioner (Appeals) or Commissioner (Appeals), to admit an application or claim for any exemption, deduction, refund or any other relief under this Act after the expiry of the period specified by or under this Act for making such application or claim and deal with the same on merits in accordance with law.

Jurisdiction of Assessing Officers and power to transfer cases.

14. (1) The provisions of sections 124 and 127 of the Income-tax Act shall, so far as may be, apply for the purposes of this Act as they apply for the purposes of the Income-tax Act, subject to the modifications specified in sub-section (2).

(2) The modifications referred to in sub-section (1) shall be the following, namely:—

(a) in section 124 of the Income-tax Act,—

(i) in sub-section (1), the reference to "person" shall be construed as a reference to "deceased";

(ii) in sub-section (3),—

(A) the reference to "person" shall be construed as a reference to "accountable person";

(B) the references to the provisions of the Income-tax Act shall be construed as references to the corresponding provisions of this Act;

(iii) sub-section (5) shall be omitted;

(b) in section 127 of the Income-tax Act,—

(i) in sub-section (1), the reference to "the assessee" shall be construed as a reference to "the accountable person";

(ii) in the *Explanation* below sub-section (4), the references to proceedings under the Income-tax Act shall be construed as including the references to proceedings under this Act.

Appointment of Valuation Officers.

15. (1) The Central Government may appoint as many Valuation Officers as it thinks fit.

(2) Subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, a wealth (inheritance) duty authority may appoint as many overseers, surveyors and assessors as may be necessary to assist the Valuation Officers in the performance of their functions.

Powers of Director General, Director, Chief Commissioner, Commissioner and Deputy Commissioner to make enquiries.

16. The Director General, the Director, the Chief Commissioner, the Commissioner and the Deputy Commissioner shall be competent to make any enquiry under this Act, and for this purpose shall have all the powers that an Assessing Officer has under this Act in relation to the making of enquiries.

CHAPTER IV

ASSESSMENT

Persons accountable and their titles and liabilities.

17. (1) Where any net wealth passes on the death of the deceased,—

(a) every legal representative to whom the net wealth so passes for any beneficial interest in possession or in whom any interest in the property so passing is at any time vested,

(b) every trustee, guardian, committee or other person in whom any interest in the net wealth so passing or the management thereof is at any time vested, and

(c) every person in whom any interest in the net wealth so passing is vested in possession by alienation or other derivative title,

shall be accountable for the whole of the wealth (inheritance) duty on the net wealth passing on the death but shall not be liable for any wealth (inheritance) duty in excess of the assets of the deceased which he actually received or which, but for his own neglect or default, he might have received:

Provided that nothing in this section shall render a person accountable for wealth (inheritance) duty who acts merely as an agent or bailiff for another person in the management of the property.

(2) Notwithstanding anything contained in sub-section (1), where an heir-at-law proves to the satisfaction of the Commissioner that some other person is in adverse possession of any asset of the deceased person, the heir-at-law shall not be accountable for the portion of the wealth (inheritance) duty payable in respect of such assets:

Provided that he shall become so accountable if, and to the extent that, he subsequently recovers possession of such assets.

(3) Where two or more persons are accountable, whether in the same capacity or in different capacities, for wealth (inheritance) duty in respect of any net wealth passing on the death of the deceased, they shall be liable jointly and severally for the whole of the wealth (inheritance) duty on the net wealth so passing.

18. Every person accountable for wealth (inheritance) duty under this Act shall, within six months of the death of the deceased, deliver to the Assessing Officer, a return in the prescribed form and verified in the prescribed manner setting forth the net wealth of the deceased as on the date of death.

Return
of net
wealth
passing
on death.

19. If any person has not furnished a return within the time allowed under section 18 or under a notice issued under clause (i) of sub-section (4) of section 21, or having furnished a return discovers any omission or wrong statement therein, he may furnish the return or a revised return, as the case may be, at any time before the expiry of one year from the end of the financial year in which the return was due under section 18 or before the completion of the assessment, whichever is earlier.

Return
after
due date
and
amend-
ment of
return.

20. The return made under section 18 or section 19 shall be signed and verified—

Return
by whom
to be
signed.

(i) by the accountable person himself;

(ii) where he is absent from India, by the accountable person himself or by any person duly authorised by him in this behalf;

(iii) where he is mentally incapacitated from attending to his affairs, by his guardian or any other person competent to act on his behalf; and

(iv) where, for any other reason, it is not possible for the accountable person to sign the return, by any person duly authorised by him in this behalf:

Provided that in a case referred to in clause (ii) or clause (iv), the person signing the return holds a valid power of attorney from the accountable person to do so, which shall be attached to the return.

Assessment.

21. (1) If the Assessing Officer is satisfied without requiring the presence of the accountable person or production of any evidence that a return made under section 18 or section 19 is correct and complete, he shall assess the net wealth of the deceased and determine the amount of wealth (inheritance) duty payable on such net wealth.

(2) If the Assessing Officer is not so satisfied, he shall serve a notice on any of the accountable persons either to attend in person at his office on a date to be specified in the notice or to produce or cause to be produced on that date any evidence on which such person may rely in support of return of net wealth of the deceased passing on death.

(3) The Assessing Officer, after hearing such evidence as the accountable person may produce and such other evidence as he may require on any specified points, and after taking into account all the relevant material which the Assessing Officer has gathered, shall, by order in writing, assess the net wealth of the deceased and determine the amount of wealth (inheritance) duty payable.

(4) For the purposes of making an assessment under this Act, the Assessing Officer may serve, on any person who has made a return under section 18 or section 19 or in whose case the time allowed under section 18 for furnishing the return has expired, a notice requiring him, on a date to be specified therein,—

(i) where such person has not made a return within the time allowed under section 19, to furnish a return of the net wealth of the deceased in the prescribed form and verified in the prescribed manner, setting forth the particulars of such net wealth, and such other particulars as may be prescribed; or

(ii) to produce or cause to be produced such accounts, records or other documents as the Assessing Officer may require.

(5) If any person—

(a) fails to make a return required under section 18 and has not made a return or a revised return under section 19, or

(b) fails to comply with all the terms of a notice issued under sub-section (2) or sub-section (4),

the Assessing Officer after taking into account, all relevant material which he has gathered, shall, after giving such person an opportunity of being heard, estimate the net wealth of the deceased to the best of his judgment and determine the sum payable as the wealth (inheritance) duty on the basis of such assessment:

Provided that such opportunity shall be given by the Assessing Officer by serving a notice calling upon the person to show cause, on a date and time to be specified in the notice, why the assessment should not be completed to the best of his judgment:

Provided further that it shall not be necessary to give such opportunity in a case where a notice under sub-section (4) has been issued prior to the making of the assessment under this sub-section.

22. (1) For the purposes of making an assessment under this Act, where the provisions of section 8 read with the rules made under this Act or, as the case may be, the rules in Schedule II, the market value of any asset is to be taken into account in such assessment, the Assessing Officer may refer the valuation of any asset to a Valuation Officer---

Reference
to Valua-
tion
Officer.

(a) in a case where the value of the asset as returned is in accordance with the estimate made by a registered valuer, if the Assessing Officer is of opinion that the value so returned is less than its fair market value;

(b) in any other case, if the Assessing Officer is of opinion—

(i) that the fair market value of the asset exceeds the value of the asset as returned by more than such percentage of the value of the asset as returned or by more than such amount as may be prescribed in this behalf; or

(ii) that having regard to the nature of the asset and other relevant circumstances, it is necessary so to do.

(2) For the purpose of estimating the value of any asset in pursuance of a reference under sub-section (1), the Valuation Officer may serve on the accountable person a notice requiring him to produce or cause to be produced on a date specified in the notice such accounts, records or other documents as the Valuation Officer may require.

(3) Where the Valuation Officer is of opinion that the value of the asset has been correctly declared in the return made by the accountable person under section 18 or section 19, he shall pass an order in writing to that effect and send a copy of his order to the Assessing Officer and to the accountable person.

(4) Where the Valuation Officer is of opinion that the value of the asset is higher than the value declared in the return made by the accountable person under section 18 or section 19, or where the asset is not disclosed or the value of the asset is not declared in such return or where no such return has been made, the Valuation Officer shall serve a notice on the accountable person intimating the value which he proposes to estimate and giving the accountable person an opportunity to state, on a date to be specified in the notice, his objections either in person or in writing before the Valuation Officer and to produce or cause to be produced on that date such evidence as the accountable person may rely in support of his objections.

(5) On the date specified in the notice under sub-section (4), or as soon thereafter as may be, after hearing such evidence as the accountable person may produce and after considering such evidence as the Valuation Officer may require on any specified points and after taking into account all relevant material which he has gathered, the Valuation Officer shall, by order in writing, estimate the value of the asset and send a copy of his order to the Assessing Officer and to the accountable person.

(6) On receipt of the order under sub-section (3) or sub-section (5) from the Valuation Officer, the Assessing Officer shall, so far as the valua-

tion of the asset in question is concerned, proceed to complete the assessment in conformity with the estimate of the Valuation Officer.

Net
wealth
escaping
assess-
ment.

23. (1) If the Assessing Officer, has reason to believe that the net wealth of a deceased chargeable to wealth (inheritance) duty has escaped assessment (whether by reason of under assessment or assessment at too low a rate or otherwise), he may, subject to the other provisions of this section and section 24, serve upon the accountable person a notice requiring him to furnish within such period, not being less than thirty days as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth the net wealth of the deceased, along with such particulars as may be required by the notice, and may proceed to assess or reassess such net wealth, which has escaped assessment and which comes to his notice subsequently in the course of the proceedings under this section and the provisions of this Act, shall, so far as may be, apply as if the return were a return required to be furnished under section 18:

Provided that where an assessment under sub-section (3) of section 21 has been made, no action shall be taken under this section after the expiry of four years from the end of the financial year in which the return of net wealth was due under section 18, unless any net wealth chargeable to wealth (inheritance) duty has escaped assessment by reason of the failure on the part of the accountable person to make a return under section 18 or section 19 or in response to a notice issued under sub-section (4) of section 21 or this section or to disclose fully or truly all material facts necessary for the assessment of the net wealth passing on the death of the deceased.

(2) No notice under sub-section (1) shall be issued,—

(a) in a case where an assessment under sub-section (3) of section 21 or sub-section (1) of this section has been made,—

(i) if four years have elapsed from the end of the financial year in which the return of the net wealth was due under section 18, unless the case falls under sub-clause (ii) or sub-clause (iii);

(ii) if four years, but not more than seven years, have elapsed from the end of the financial year in which the return of the net wealth was due under section 18, unless the net wealth chargeable to wealth (inheritance) duty which has escaped assessment amounts to or is likely to amount to rupees five lakhs or more;

(iii) if seven years, but not more than ten years, have elapsed from the end of the financial year in which the return of the net wealth was due under section 18, unless the net wealth chargeable to wealth (inheritance) duty which has escaped assessment amounts to or is likely to amount to rupees ten lakhs or more;

(b) in any other case,—

(i) if four years have elapsed from the end of the financial year in which the return of the net wealth was due under section 18, unless the case falls under sub-clause (ii) or sub-clause (iii);

(ii) if four years, but not more than seven years, have elapsed from the end of the financial year in which the return of the net wealth was due under section 18, unless the net

wealth chargeable to wealth (inheritance) duty which has escaped assessment amounts to or is likely to amount to rupees two lakhs and fifty thousand or more;

(iii) if seven years, but not more than ten years, have elapsed from the end of the financial year in which the return of the net wealth was due under section 18, unless the net wealth chargeable to wealth (inheritance) duty which has escaped assessment amounts to or is likely to amount to rupees five lakhs or more.

Explanation.—For the purposes of sub-section (1) and sub-section (2), the following shall also be deemed to be cases where net wealth chargeable to wealth (inheritance) duty has escaped assessment, namely:—

(a) where no return of net wealth has been furnished by the accountable person although the net wealth of the deceased in respect of which he is assessable under this Act exceeded the maximum amount which is not chargeable to wealth (inheritance) duty;

(b) where a return of net wealth has been furnished by the accountable person but no assessment has been made and it is noticed by the Assessing Officer that the accountable person has understated the net wealth or has claimed excessive exemption or deduction in the return.

(3) (a) In a case where an assessment under sub-section (3) of section 21 or sub-section (1) of this section has been made, no notice shall be issued under sub-section (1) except by an Assessing Officer of the rank of an Assistant Commissioner or Deputy Commissioner:

Provided that, after the expiry of four years from the end of the financial year in which the return of net wealth was due under section 18, no such notice shall be issued unless the Chief Commissioner or Commissioner is satisfied that it is a fit case for the issue of such notice.

(b) In a case other than a case falling under clause (a), no notice shall be issued under sub-section (1) by an Assessing Officer, who is below the rank of a Deputy Commissioner, after the expiry of four years from the end of the financial year in which return of net wealth was due under section 18, unless the Deputy Commissioner is satisfied, on the reasons recorded by such Assessing Officer, that it is a fit case for the issue of such notice.

(4) Nothing contained in this section limiting the time within which any proceeding for assessment or reassessment may be commenced, shall apply to an assessment or reassessment to be made on such person in consequence of or to give effect to any finding or direction contained in an order under section 30, 31, 32, 34 or 36 or by any court in any proceeding under any other law.

24. (1) No order of assessment shall be made under section 21 at any time after the expiry of two years from the end of the financial year in which the return of net wealth under section 18 is due.

(2) No order of assessment or reassessment shall be made under section 23 after the expiry of two years from the end of the financial year in which the notice under sub-section (1) of that section was served.

Time
limit for
completion
of
assessment
and
reassessment.

(3) Notwithstanding anything contained in sub-sections (1) and (2), an order of fresh assessment in pursuance of an order passed under section 30, section 31 or section 32, setting aside or cancelling an assessment, may be made at any time before the expiry of two years from the end of the financial year in which the order under section 30 or section 31 is reassessment may, subject to the provisions of sub-section (3), be completed, the order under section 32 is passed by the Commissioner.

(4) The provisions of sub-sections (1) and (2) shall not apply to the assessment or reassessment made in the case of net wealth of a deceased in consequence of, or to give effect to, any finding or direction contained in an order under section 30, section 31, section 32, section 34 or section 36 or in an order of any court in a proceeding otherwise than by way of appeal or reference under this Act, and such assessment or reassessment may, subject to the provisions of sub-section (3), be completed at any time.

Explanation.—In computing the period of limitation for the purposes of this section,—

(i) the time taken in reopening the whole or any part of the proceeding or in giving an opportunity to any accountable person to be reheard under the proviso to section 39 of the Wealth-tax Act as applicable under section 57 of this Act; or

(ii) the period during which the assessment proceeding is stayed by an order or injunction of any court, shall be excluded.

25. (1) Where the return of net wealth of a deceased under section 18 or section 19, or in response to a notice under clause (i) of sub-section (4) of section 21, is furnished after the due date, or is not furnished, the accountable person shall be liable to pay simple interest at the rate of two per cent. for every month or part of a month comprised in the period commencing on the date, immediately following the due date, and,—

(a) where the return is furnished after the due date, ending on the date of furnishing the return, or

(b) where no return has been furnished, ending on the date of completion of the assessment under sub-section (5) of section 21,

on the amount of duty payable on the net wealth as determined on regular assessment.

Explanation 1.—In this section, “due date” means the date specified in section 18.

Explanation 2.—Where, an assessment is made for the first time under section 23, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

(2) Where the return of net wealth required by a notice under sub-section (1) of section 23 issued after the completion of an assessment under section 21 or section 23, is furnished after the expiry of the time allowed under such notice or is not furnished, the accountable person shall be liable to pay simple interest at the rate of two per cent. for every month or part of a month comprised in the period commencing on

Interest
for de-
faults in
furnish-
ing return
of net
wealth

the date immediately following the expiry of the time allowed as aforesaid, and—

(a) where the return is furnished after the expiry of the time aforesaid, ending on the date of furnishing the return; or

(b) where no return has been furnished, ending on the date of completion of the reassessment under section 23,

on the amount by which the duty on the net wealth determined on the basis of such reassessment exceeds the duty on the net wealth as determined on the basis of the earlier assessment aforesaid.

(3) Where, as a result of an order under section 30 or section 31 or section 32 or section 34 or section 36 or section 48, the amount of duty on which interest was payable under this section has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and—

(i) in a case where the interest is increased, the Assessing Officer shall serve upon the accountable person a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 39 and the provisions of this Act shall apply accordingly, and

(ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.

26. (1) If the Assessing Officer, in the course of any proceedings under this Act, is satisfied that any person has failed to comply with the notice under sub-section (2) or sub-section (4) of section 21, the Assessing Officer may, by order in writing, direct that such person shall pay, by way of penalty, a sum which shall not be less than one thousand rupees but which may extend to twenty-five thousand rupees for each such failure:

Penalty
for
failure to
comply
with
notices.

Provided that—

(a) no penalty shall be imposed under this section, if the person proves that there was reasonable cause for the failure referred to in this sub-section;

(b) no order imposing a penalty under this section shall be made—

(i) by the Income-tax Officer, where the penalty exceeds ten thousand rupees;

(ii) by the Assistant Commissioner, where the penalty exceeds twenty thousand rupees,

except with the prior approval of the Deputy Commissioner.

(2) No order shall be made under sub-section (1) unless the person concerned has been heard, or has been given a reasonable opportunity of being heard.

(3) No order imposing a penalty under sub-section (1) shall be passed after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated,

are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later.

Explanation.—In computing the period of limitation for the purposes of this section,—

(i) the time taken in giving an opportunity to any accountable person to be reheard under the proviso to section 39 of the Wealth-tax Act as applicable under section 57 of this Act; and

(ii) any period during which a proceeding under this section for the levy of penalty is stayed by an order or injunction of any court,

shall be excluded.

Penalty for failure to answer questions, sign statements, furnish information, allow inspection, etc.

27. (1) If any person,—

(a) being legally bound to state the truth of any matter touching the subject of his assessment refuses to answer any question put to him by a wealth (inheritance) duty authority in the exercise of his powers under this Act; or

(b) refuses to sign any statement made by him in the course of any proceedings under this Act, which a wealth (inheritance) duty authority may legally require him to sign; or

(c) to whom a summons is issued under sub-section (1) of section 56 either to attend to give evidence or produce books of account or other documents at a certain place and time, omits to attend or produce the books of account or documents at the place and time,

he shall pay, by way of penalty, a sum which shall not be less than five hundred rupees but which may extend to ten thousand rupees for each such default or failure:

Provided that no penalty shall be imposable under clause (c) if the person proves that there was reasonable cause for the said failure.

(2) If a person fails to furnish in due time any statement or information which such person is bound to furnish to the Assessing Officer under section 38 of the Wealth-tax Act as applicable under section 57 of this Act, he shall pay, by way of penalty, a sum which shall not be less than one hundred rupees but which may extend to two hundred rupees for every day during which the failure continues:

Provided that no penalty shall be imposable under this sub-section if the person proves that there was reasonable cause for the said failure.

(3) Any penalty imposable under sub-section (1) or sub-section (2) shall be imposed—

(a) in a case where the contravention, failure or default in respect of which such penalty is imposable occurs in the course of any proceeding before a wealth (inheritance) duty authority not lower in rank than a Deputy Director or a Deputy Commissioner, by such wealth (inheritance) duty authority;

(b) in any other case, by the Deputy Director or the Deputy Commissioner.

(4) No order under this section shall be passed by any wealth (inheritance) duty authority referred to in sub-section (3) unless the person on whom the penalty is proposed to be imposed has been heard, or has been given a reasonable opportunity of being heard in the matter, by such authority.

Explanation.—In this section, “wealth (inheritance) duty authority” includes a Director General, Director, Deputy Director, Assistant Director and a Valuation Officer while exercising the powers vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the matters specified in sub-section (1) of section 56.

5 of 1908.

28. (1) If the Assessing Officer, Deputy Commissioner (Appeals), Commissioner (Appeals), Commissioner or Appellate Tribunal in the course of any proceedings under this Act is satisfied that any accountable person has concealed the particulars of any assets or furnished inaccurate particulars of any assets or debts, pertaining to the determination of net wealth of the deceased, he or it may, by order in writing, direct that such person shall pay by way of penalty in addition to any wealth (inheritance) duty payable by him, a sum which shall not be less than, but which shall not exceed five times, the amount of wealth (inheritance) duty sought to be evaded by reason of the concealment of particulars of any assets or the furnishing of inaccurate particulars in respect of any assets or debts.

Penalty
for con-
cealment
of
assets,
etc.

Explanation 1.—For the purposes of this sub-section, the expression “the amount of wealth (inheritance) duty sought to be evaded”,—

(a) in a case to which *Explanation 3* applies, means the wealth (inheritance) duty on the net wealth assessed;

(b) in any other case, means the difference between the wealth (inheritance) duty on the net wealth assessed and the wealth (inheritance) duty that would have been chargeable had the net wealth assessed been reduced by the amount which represents the value of any assets in respect of which particulars have been concealed or inaccurate particulars have been furnished and of any debts in respect of which inaccurate particulars have been furnished.

Explanation 2.—Where in respect of any facts material to the computation of the net wealth of the deceased under this Act,—

(A) the accountable person fails to offer an explanation or offers an explanation which is found by the Assessing Officer or the Deputy Commissioner (Appeals) or the Commissioner (Appeals) to be false, or

(B) such accountable person offers an explanation which he is not able to substantiate and fails to prove that such explanation is *bona fide* and that all the facts relating to the same and material to the computation of the net wealth of the deceased have been disclosed by him,

then, the amount added or disallowed in computing the net wealth of the deceased as a result thereof shall be deemed to represent the value of the assets in respect of which particulars have been concealed.

Explanation 3.—Where any accountable person who is required to furnish under section 18 a return of net wealth of the deceased, has failed to do so within the time allowed therein and the Assessing Officer or the Deputy Commissioner (Appeals) or the Commissioner (Appeals) is satisfied that such accountable person is assessable in respect of the net wealth of the deceased passing on death, then, such person shall be deemed to have concealed the particulars of the assets or furnished inaccurate particulars of any assets or debts notwithstanding that such person furnishes a return of the net wealth so passing at any time after the expiry of the period specified aforesaid in pursuance of a notice under section 23.

Explanation 4.—Where the value of any asset returned by any accountable person is less than seventy per cent. of the value of such asset as determined in an assessment under section 21 or section 23, such person shall be deemed to have furnished inaccurate particulars of such assets within the meaning of sub-section (1), unless he proves that the value of the assets as returned by him is the correct value.

(2) No order shall be made under sub-section (1) unless the accountable person concerned has been given a reasonable opportunity of being heard.

(3) Notwithstanding anything contained in sub-section (1), if the amount (as determined by the Assessing Officer on assessment) in respect of which penalty is imposable under sub-section (1) exceeds a sum of twenty five thousand rupees, the Assessing Officer shall not issue any direction under sub-section (1) for payment by way of penalty without the previous approval of the Deputy Commissioner.

(4) A Deputy Commissioner (Appeals), a Commissioner (Appeals), a Commissioner or the Appellate Tribunal on making an order under this section imposing a penalty, shall forthwith send a copy of the same to the Assessing Officer.

(5) No order imposing a penalty under this section shall be passed after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for the imposition of penalty is initiated, whichever period expires later.

Explanation.—In computing the period of limitation for the purposes of this section,—

(i) the time taken in giving an opportunity to the accountable person to be reheard under section 39 of the Wealth-tax Act as applicable under section 57 of this Act; and

(ii) any period during which a proceeding under this section for the levy of penalty is stayed by an order or injunction of any court, shall be excluded.

Power to
reduce
or waive
penalty
in

29. (1) Notwithstanding anything contained in this Act, the Chief Commissioner or Commissioner may, in his discretion, whether on his own motion or otherwise if he is satisfied that such person has, prior to the detection by the Assessing Officer of the concealment of particulars

of assets or of the inaccuracy of particulars furnished in respect of any asset or debt in respect of which the penalty is imposable, voluntarily and in good faith made full and true disclosure of such particulars, and also has co-operated in any inquiry relating to the assessment of the net wealth of the deceased and has either paid or made satisfactory arrangements for the payment of any duty or interest payable in consequence of an order passed under this Act, reduce or waive the amount of penalty imposed or imposable on a person under section 28.

certain
cases.

Explanation.—For the purposes of this sub-section, a person shall be deemed to have made full and true disclosure of the particulars of the assets or debts of a deceased in any case where the excess of net wealth assessed over the net wealth returned is of such a nature as not to attract the provisions of section 28.

(2) Notwithstanding anything contained in sub-section (1), if in a case falling under section 28, the net wealth in respect of which the penalty is imposed or imposable exceeds five hundred thousand rupees, no order reducing or waiving the penalty under sub-section (1) shall be made by the Chief Commissioner or Commissioner, except with the previous approval of the Board.

(3) Without prejudice to the powers conferred on him by any other provision of this Act, the Chief Commissioner or Commissioner may, on an application made in this behalf by an accountable person, and after recording his reasons for so doing, reduce or waive the amount of any penalty payable by the accountable person under this Act or stay or compound any proceeding for the recovery of any such amount, if he is satisfied that—

(i) to do otherwise would cause genuine hardship to the accountable person having regard to the circumstances of the case, and

(ii) the accountable person has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him.

(4) Every order made under this section shall be final and shall not be called into question by any court or any other authority.

CHAPTER V

APPEALS, REVISIONS AND REFERENCES

30. (1) Subject to the provisions of sub-section (2), any person,—

(a) objecting to the amount of net wealth determined under this Act; or

(b) objecting to the amount of wealth (inheritance) duty determined as payable under this Act; or

(c) denying his liability to be assessed as an accountable person under this Act; or

(d) objecting to any penalty imposed by the Assessing Officer under section 26. or section 28; or

Appeals
to Deputy
Commissioner
(Appeals)
or Com-
missioner
(Appeals)
from the
orders of
Assessing
Officers.

(e) objecting to penalty imposed by the Assessing Officer under the provisions of section 221 of the Income-tax Act as applicable under section 41 of this Act; or

(f) objecting to any order of the Assessing officer under section 48, having the effect of enhancing the assessment or reducing the refund or refusing to allow the claim made by the accountable person under the said section; or

(g) objecting to any order of Valuation Officer under section 48, having the effect of enhancing the valuation of any asset or refusing to allow the claim made by the accountable person under the said section; or

(h) objecting to any order of the Assessing Officer or Valuation Officer imposing a fine under sub-section (2) of section 56,

may appeal to the Deputy Commissioner (Appeals) or Commissioner (Appeals) against the assessment or order, as the case may be, in the prescribed form and verified in the prescribed manner.

(2) Notwithstanding anything contained in sub-section (1), any person,—

(a) objecting to the amount of net wealth determined under this Act or objecting to the amount of wealth (inheritance) duty determined as payable by him under this Act or denying his liability to be assessed under this Act, where the net wealth determined on assessment made under section 21 exceeds fifteen lakh rupees; or

(b) objecting to any penalty imposed under section 26; or

(c) objecting to any penalty imposed under section 28 where the penalty has been imposed with the previous approval of the Deputy Commissioner under sub-section (3) of section 28; or

(d) objecting to any assessment or order referred to in clauses (a) to (f) (both inclusive) of sub-section (1) where such assessment or order has been made by the Deputy Commissioner in exercise of the powers or functions conferred on or assigned to him under section 11 or section 14; or

(e) objecting to an order made by an Assessing Officer in the case of such persons or classes of persons as the Board may, having regard to the nature of cases, the complexities involved and other relevant considerations, direct.

may appeal to the Commissioner (Appeals) against the assessment or order, as the case may be, in the prescribed form and verified in the prescribed manner.

(3) Notwithstanding anything contained in sub-section (1), the Board, or if so authorised by the Board, the Director General or the Chief Commissioner, may, by order in writing, transfer any appeal which is pending before a Deputy Commissioner (Appeals) and any matter arising out of or connected with such appeal and which is so pending, to the Commissioner (Appeals) if the Board, or, as the case may be, the Director General or Chief Commissioner (at the request of the appellant or

otherwise) is satisfied that it is necessary or expedient so to do having regard to the nature of the case, the complexities involved and other relevant considerations and the Commissioner (Appeals) may proceed with such appeal or matter from the stage at which it was before it was so transferred:

Provided that the appellant may demand that before proceeding further with the appeal or matter, the previous proceeding or any part thereof be re-opened or that he be reheard.

(4) An appeal shall be presented within thirty days of the receipt of the notice of demand relating to the assessment or penalty objected to, or the date on which any order objected to, is communicated to him, but the Deputy Commissioner (Appeals) or, as the case may be, the Commissioner (Appeals) may admit an appeal after the expiration of the period aforesaid if he is satisfied that the appellant had sufficient cause for not presenting the appeal within that period.

(5) Where a return has been filed by an accountable person, no appeal under this section shall be admitted unless at the time of the filing of the appeal he has paid the wealth (inheritance) duty due on the net wealth returned by him.

(6) The Deputy Commissioner (Appeals) or, as the case may be, the Commissioner (Appeals) shall fix a day and place for the hearing of the appeal and may from time to time adjourn the hearing.

(7) If the valuation of any asset is objected to in an appeal under clause (a) of sub-section (1) or of sub-section (2), the Deputy Commissioner (Appeals) or, as the case may be, the Commissioner (Appeals) shall,—

(a) in a case where such valuation has been made by a Valuation Officer under section 22, give such Valuation Officer an opportunity of being heard;

(b) in any other case, on a request being made in this behalf by the Assessing Officer, give an opportunity of being heard to any Valuation Officer nominated for the purpose by the Assessing Officer.

(8) The Deputy Commissioner (Appeals) or, as the case may be, the Commissioner (Appeals) may,—

(a) at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal;

(b) before disposing of an appeal, make such further inquiry as he thinks fit or cause further inquiry to be made by the Assessing Officer or, as the case may be, the Valuation Officer.

(9) In disposing of an appeal, the Deputy Commissioner (Appeals) or, as the case may be, the Commissioner (Appeals) may pass such order as he thinks fit which may include an order enhancing the assessment or penalty:

Provided that no order enhancing the assessment or penalty shall be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(10) In disposing of an appeal, the Deputy Commissioner (Appeals) or, as the case may be, the Commissioner (Appeals) may consider and decide any matter arising out of the proceedings in which the order appealed against was passed, notwithstanding, that such matter was not raised before the Deputy Commissioner (Appeals) or, as the case may be, the Commissioner (Appeals) by the appellant.

(11) The order of the Deputy Commissioner (Appeals) or, as the case may be, the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision.

(12) A copy of every order passed by the Deputy Commissioner (Appeals) or, as the case may be, the Commissioner (Appeals) under this section shall be forwarded to the appellant and the Chief Commissioner or Commissioner.

Appeal
to the
Appellate
Tribunal
from orders
of the
Deputy
Com-
missioner
(Appeals)
or the
Com-
missioner
(Appeals).

31. (1) An accountable person objecting to an order passed by the Deputy Commissioner (Appeals) or the Commissioner (Appeals) under section 26 or section 28 or section 30 or sub-section (2) of section 56 may appeal to the Appellate Tribunal within sixty days of the date on which the order is communicated to him.

(2) The Commissioner may, if he is not satisfied as to the correctness of any order passed by a Deputy Commissioner (Appeals) or a Commissioner (Appeals) under section 30, direct the Assessing Officer to appeal to the Appellate Tribunal against such order and such appeal may be made at any time before the expiry of sixty days of the date on which the order is communicated to the Commissioner.

(3) The Assessing Officer or the accountable person, as the case may be, on receipt of notice that an appeal against the order of the Deputy Commissioner (Appeals) or the Commissioner (Appeals) has been preferred under sub-section (1) or sub-section (2) by the other party, may, notwithstanding, that he may not have appealed against such order or any part thereof, within thirty days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the Deputy Commissioner (Appeals) or the Commissioner (Appeals) and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (1) or sub-section (2).

(4) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (1) or sub-section (2) or sub-section (3), if it is satisfied that there was sufficient cause for not presenting it within that period.

(5) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, except in the case of appeal referred to in sub-section (2), be accompanied by a fee of two hundred rupees.

(6) The Appellate Tribunal may, after giving both parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit and any such orders may include an order enhancing the assessment or penalty:

Provided that if the valuation of any asset is objected to, the Appellate Tribunal shall,—

(a) in a case where such valuation has been made by a Valuation Officer under section 22, also give such Valuation Officer an opportunity of being heard;

(b) in any other case, on a request being made in this behalf by the Assessing Officer, give an opportunity of being heard also to any Valuation Officer nominated for the purpose by the Assessing Officer:

Provided further that no order enhancing an assessment or penalty shall be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(7) A copy of every order passed by the Appellate Tribunal under this section shall be forwarded to the accountable person and the Commissioner.

(8) Save as otherwise provided in section 34, any order passed by the Appellate Tribunal on appeal shall be final.

(9) The provisions of sub-sections (1), (4) and (5) of section 255 of the Income-tax Act shall apply to the Appellate Tribunal in the discharge of its functions under this Act as they apply to it in the discharge of its functions under the Income-tax Act.

32. (1) The provisions of section 25 of the Wealth-tax Act shall, so far as may be, apply for the purposes of this Act as they apply for the purposes of the Wealth-tax Act, subject to the modifications specified in sub-section (2).

(2) The modifications referred to in sub-section (1) shall be the following, namely:—

(a) the word "assessee", wherever it occurs, shall be construed as a reference to the words "accountable person";

(b) in the *Explanation* to sub-section (2), in clause (a), the reference to section 3 of the Wealth-tax Act shall be construed as a reference to section 11 of this Act.

33. (1) Any accountable person objecting to an order passed by the Chief Commissioner or Commissioner or Director General or Director under section 26 or section 27 or section 32, as the case may be, may appeal to the Appellate Tribunal within sixty days of the date on which the order is communicated to him.

(2) An appeal to the Appellate Tribunal under sub-section (1) shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a fee of two hundred rupees.

(3) The provisions of sub-sections (4), (6), (7) and (8) of section 31 shall apply in relation to any appeal under this section as they apply in relation to any appeal under that section.

Powers
of Com-
missioner
to revise
order of
subordi-
nate
authori-
ties.

Appeal
to Ap-
pellate
Tribunal
from
orders of
enhance-
ment
by Chief
Commis-
sioners or
Commis-
sioners.

Refer-
ence to
High
Court.

34. (1) The provisions of section 27 of the Wealth-tax Act shall, so far as may be, apply for the purposes of this Act as they apply for the purposes of the Wealth-tax Act, subject to the modifications specified in sub-section (2).

(2) The modifications referred to in sub-section (1) shall be the following, namely:—

(a) the reference to “assessee” shall be construed as a reference to “accountable person”;

(b) the references to sections 24 and 26 of the Wealth-tax Act shall be construed as references to sections 31 and 33 of this Act, respectively.

Hearing
by High
Court.

35. The provisions of section 28 of the Wealth-tax Act shall, so far as may be, apply for the purposes of this Act, subject to the modification that the reference to section 27 of the Wealth-tax Act shall be construed as a reference to section 34 of this Act.

Appeal to
Supreme
Court.

36. (1) An appeal shall lie to the Supreme Court from any judgment of the High Court delivered on a case stated under section 34 in any case which the High Court certifies as a fit case for appeal to the Supreme Court.

(2) Where the judgment of the High Court is varied or reversed on appeal under this section, effect shall be given to the order of the Supreme Court in the manner provided in section 27 of the Wealth-tax Act as applicable under section 34 of this Act.

(3) The High Court may, on application made to it for the execution of any order of the Supreme Court in respect of any costs awarded by it, transmit the order for execution to any court subordinate to the High Court.

Duty
to be
paid
notwith-
standing
reference,
etc.

37. Notwithstanding that a reference has been made to the High Court or the Supreme Court, or an appeal has been preferred to the Supreme Court, wealth (inheritance) duty shall be payable in accordance with the assessment made in the case.

Definition
of High
Court.

38. In this Chapter, the expression “High Court” shall have the same meaning as in section 29B of the Wealth-Tax Act

CHAPTER VI

PAYMENT AND RECOVERY OF WEALTH (INHERITANCE) DUTY

Notice of
demand.

39. When any wealth (inheritance) duty, interest, penalty, fine or any other sum is payable in consequence of any order passed under this Act, the Assessing Officer shall serve upon the accountable person a notice of demand in the prescribed form specifying the sum so payable.

When
duty etc.,
payable
and when
account-
able
person
deemed in
default.

40. (1) Any amount specified as payable in a notice of demand under section 39 shall be paid within thirty days of the service of the notice at the place and to the person mentioned in the notice:

Provided that, where the Assessing Officer has any reason to believe that it will be detrimental to revenue if the full period of thirty days aforesaid is allowed, he may, with the previous approval of the Deputy

Commissioner, direct that the sum specified in the notice of demand shall be paid within such period being a period less than the period of thirty days aforesaid, as may be specified by him in the notice of demand.

(2) If the amount specified in any notice of demand under section 39 is not paid within the period limited under sub-section (1), the accountable person shall be liable to pay simple interest calculated at the rate of one and one-half per cent. for every month or part of a month comprised in the period commencing from the day immediately following the end of the period mentioned in sub-section (1) and ending with the day on which the amount is paid:

Provided that, where as a result of an order under section 30, or section 31, or section 32, or section 33, or section 34, or section 36, or section 48, the amount on which interest was payable under this section had been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded.

(3) Notwithstanding anything contained in sub-section (2), the Chief Commissioner or Commissioner may reduce or waive the amount of interest paid or payable by an accountable person under the said sub-section if he is satisfied that—

(i) payment of such amount has caused or would cause genuine hardship to the accountable person;

(ii) default in the payment of the amount on which interest has been paid or was payable under the said sub-section was due to circumstances beyond the control of the accountable person; and

(iii) the accountable person has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him.

(4) Without prejudice to the provisions contained in sub-section (2), on an application made by the accountable person before the expiry of the due date under sub-section (1), the Assessing Officer may extend the time for payment or allow payment by instalments, subject to such conditions as he may think fit to impose in the circumstances of the case.

(5) If the amount is not paid within the time limited under sub-section (1) or extended under sub-section (4), as the case may be, at the place and to the person mentioned in the said notice, the accountable person shall be deemed to be in default.

(6) If in a case where payment by instalments is allowed under sub-section (4), the accountable person commits default in paying any one of the instalments within the time fixed under that sub-section, that accountable person shall be deemed to be in default as to the whole of the amount then outstanding, and the other instalment or instalments shall be deemed to have been due on the same date as the instalment actually in default.

(7) Where an accountable person has presented an appeal under section 30, the Assessing Officer may, in his discretion, and subject to such conditions as he may think fit to impose in the circumstances of the case,

treat the accountable person as not being in default in respect of the amount in dispute in the appeal, even though the time for payment has expired, as long as such appeal remains undisposed of.

(8) Where the net wealth of a deceased includes assets located in a country outside India, the laws of which prohibit or restrict the remittance of money to India, the Assessing Officer shall not treat the accountable person as in default in respect of that part of the duty which is attributable to those assets, and shall continue to treat the accountable person as not in default in respect of that part of the duty until the prohibition or restriction of remittance is removed.

Mode of
recovery.

41. The provisions contained in sections 221 to 227, 228A, 229, 231 and 232 of the Income-tax Act and the Second and Third Schedules to that Act and any rules made thereunder shall, so far as may be, apply as if the said provisions were provisions of this Act and referred to wealth (inheritance) duty and sums imposed by way of penalty, fine and interest under this Act instead of to income-tax and sums imposed by way of penalty, fine and interest under that Act and to the corresponding wealth (inheritance) duty authorities instead of the income-tax authorities specified therein.

Explanation 1.—Any reference to sub-section (2) or sub-section (6) or sub-section (7) of section 220 of the Income-tax Act in the said provisions of that Act or the rules made thereunder shall be construed as references to sub-section (2) or sub-section (7) or sub-section (8) of section 40 of this Act.

Explanation 2.—The Chief Commissioner or Commissioner and the Tax Recovery Officer referred to in the Income-tax Act shall be deemed to be the corresponding wealth (inheritance) duty authorities for the purpose of recovery of wealth (inheritance) duty and sums imposed by way of penalty, fine and interest under this Act.

Payment of
duty by
transfer of
property.

42. (1) The Central Government may, on an application of the person accountable for wealth (inheritance) duty, accept in satisfaction of the whole or any part of such duty any property passing on the death of the deceased at such price as may be agreed upon between the Central Government and that person and thereupon such person shall deliver possession of the property to such authority as may be specified by that Government in this behalf.

(2) Notwithstanding anything contained in any other law for the time being in force, on the date the possession of the property is delivered to the authority under sub-section (1)—

(i) the property shall vest in the Central Government; and

(ii) the Central Government shall, where necessary, intimate the registering authority concerned accordingly,

and the authority shall administer the property in such manner as the Central Government may direct.

(3) Where the price referred to in sub-section (1) exceeds the aggregate of the amount due under this Act in respect of the net wealth

of the deceased, the excess shall be applied in the following order to the payment of any tax, penalty, interest or other amount—

(i) which the legal representative of the deceased is liable to pay in respect of the income, or wealth of, or gift made by, the deceased under the Income-tax Act, the Wealth-tax Act, and the Gift-tax Act, 1958;

(ii) which the executor is liable to pay under any of the Acts aforesaid in respect of the property of the deceased for the period of the administration of the property;

(iii) which the person beneficially entitled to the property in question is liable to pay under any of those Acts,

and the balance, if any, shall be paid to the accountable person.

43. (1) In all cases where the net wealth of the deceased is assessable under this Act and an application is made for obtaining a probate or a letter of administration, the legal heir or the executor, as the case may be, of the deceased, shall furnish to the Assessing Officer a copy of the affidavit of valuation within one month from the date of filing the affidavit in the court.

(2) Without prejudice to the provisions of any other law for the time being in force, if a person fails to comply with the provisions of sub-section (1), he shall, on an order passed by the Assessing Officer, pay by way of penalty, a sum which shall not be less than five hundred rupees but which may extend to ten thousand rupees, for such failure:

Provided that no order under this sub-section shall be passed unless the person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter.

Copy of affidavit of valuation of property to be furnished to the Assessing Officer and penalty for the failure to do so.

CHAPTER VII

REFUNDS

44. (1) Where, as a result of any order passed in appeal or other proceedings (including a rectification proceeding) under this Act, refund of any amount becomes due to the accountable person, the Assessing Officer shall, except as otherwise provided in this Act, refund the amount to the accountable person without his having to make any claim in this behalf:

Provided that where, by the order aforesaid,—

(a) an assessment is set aside or cancelled and an order of fresh assessment is directed to be made, the refund, if any, shall become due only on the making of such fresh assessment;

(b) the assessment is annulled, the refund shall become due only of the amount, if any, of the duty paid in excess of the duty chargeable on the net wealth returned.

(2) Where an order giving rise to a refund is the subject-matter of an appeal or further proceeding or where any other proceeding under this Act is pending and the Assessing Officer is of the opinion that the grant of the refund is likely to adversely affect the revenue, the As-

Refunds.

sessing Officer may, with the previous approval of the Chief Commissioner or Commissioner withhold the refund till such time as the Chief Commissioner or Commissioner may determine.

(3) (a) Where, in pursuance of any order passed under this Act, the refund of any amount becomes due to the accountable person he shall, subject to the provisions of this sub-section, be entitled to receive, in addition to the said amount, simple interest thereon calculated at the rate of one and a half per cent. for every month or part of a month comprised in the period or periods from the date or, as the case may be, dates of payment of the wealth (inheritance) duty or penalty to the date on which the refund is granted.

Explanation.—For the purposes of this clause “date of payment of the wealth (inheritance) duty or penalty” means the date on and from which the amount of wealth (inheritance) duty or penalty specified in the notice of demand issued under section 39 is paid in excess of such demand.

(b) If the proceedings resulting in the refund are delayed for reasons attributable to the accountable person, whether wholly or in part, the period of the delay so attributable to him shall be excluded from the period for which interest is payable and where any question arises as to the period to be excluded, it shall be, decided by the Chief Commissioner or Commissioner whose decision thereon shall be final.

(c) Where, as a result of an order under section 23 or section 30 or section 31 or section 32 or section 34 or section 36 or section 48, the amount on which interest was payable under clause (a) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly and, in a case where the interest is reduced, the Assessing Officer shall serve on the accountable person a notice of demand in the prescribed form specifying the amount of the excess interest paid and requiring him to pay such amount, and such notice of demand shall be deemed to be a notice under section 39 and the provisions of this Act shall apply accordingly.

CHAPTER VIII

REGISTERED VALUERS

Appearance
by
registered
valuers.

45. Notwithstanding anything contained in this Act, any accountable person who is entitled to or required to attend before any wealth (inheritance) duty authority or the Appellate Tribunal in connection with any matter relating to the valuation of any asset, except where he is required under this Act to attend in person, may attend by a registered valuer.

Registered
valuers.

46. A person whose name is included in the Register of Valuers under sub-section (1) of section 34AB of the Wealth-tax Act shall be the registered valuer for the purposes of this Act.

CHAPTER IX

MISCELLANEOUS

Provi-
sional

47. (1) Where, during the pendency of any proceeding for the assessment of net wealth or for the assessment or reassessment of net wealth

of deceased which has escaped assessment, the Assessing Officer is of the opinion that for the purpose of protecting the interests of the revenue it is necessary so to do, he may, with the previous approval of the Chief Commissioner or Commissioner, by order in writing, attach provisionally any property of the deceased passing on death in the manner provided in the Second Schedule to the Income-tax Act as made applicable to this Act by section 41.

attach-
ment to
protect
revenue
in certain
cases.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1):

Provided that the Chief Commissioner or Commissioner may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as he thinks fit, so, however, that the total period of extension shall not in any case exceed two years.

48. (1) With a view to rectifying any mistake apparent from the record—

Rectifica-
tion of
mistakes.

(a) the Assessing Officer may amend any order of assessment or of refund or any other order passed by him;

(b) the Valuation Officer may amend any order passed by him under section 22;

(c) the Deputy Commissioner or the Director or Commissioner or Deputy Commissioner (Appeals) or Commissioner (Appeals) may amend any order passed by him under section 28 or section 30;

(d) the Commissioner may amend any order passed by him under section 32;

(e) the Appellate Tribunal may amend any order passed by it under section 31 or section 33.

(2) Subject to the other provisions of this section, the authority concerned—

(a) may make an amendment under sub-section (1) of its own motion;

(b) shall make such amendment for rectifying any such mistake which has been brought to its notice by the accountable person, and where the authority concerned is the Valuation Officer or the Deputy Commissioner (Appeals) or the Commissioner (Appeals) or the Tribunal, by the Assessing Officer also.

(3) An amendment which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the accountable person, shall not be made under this section unless the authority concerned has given notice to the accountable person of its intention so to do and has allowed the accountable person a reasonable opportunity of being heard.

(4) Where an amendment is made under this section, an order shall be passed in writing by the wealth (inheritance) duty authority concerned or the Tribunal, as the case may be.

(5) Where any such amendment has the effect of enhancing the assessment or reducing refund already made, the Assessing Officer shall serve on the accountable person a notice of demand in the prescribed form specifying the sum payable and such notice of demand shall be deemed to be issued under section 39 and the provisions of this Act shall apply accordingly.

(6) Where any amendment made by the Valuation Officer under clause (b) of sub-section (1) has the effect of enhancing the valuation of any asset, he shall send a copy of his order to the Assessing Officer who shall thereafter proceed to amend the order of assessment in conformity with the order of the Valuation Officer and the provisions of sub-section (5) shall apply accordingly.

(7) No amendment under this section shall be made after the expiry of four years from the end of the financial year in which the order sought to be amended was passed.

(8) Notwithstanding anything contained in sub-section (7), where the valuation of any asset has been enhanced by the Valuation Officer under this section, the consequential amendment to the order of assessment may be made by the Assessing Officer at any time before the expiry of one year from the date of the order of the Valuation Officer under this section.

(9) Where any matter has been considered and decided in a proceeding by way of an appeal or revision relating to an order referred to in sub-section (1), the authority passing such order may, notwithstanding anything contained in any other law for the time being in force, amend the order under this section in relation to any matter other than the matter which has been so considered and decided.

Offences
and
prosecution

49. The provisions of sections 35A, 35B, 35C, 35D, 35F, 35G, 35I, 35L, 35M and 35O of the Wealth tax Act shall, so far as may be, apply for the purposes of this Act as they apply for the purposes of the Wealth-tax Act.

Certain
offences
to be non-
cognizable,

50. The provisions of section 35J of the Wealth-tax Act shall, so far as may be, apply for the purposes of this Act as they apply for the purposes of the Wealth-tax Act.

Bar on
prosecu-
tions,
and on
inadmis-
sibility of
evidence
in certain
circum-
stances.

51. The provisions of section 35K of the Wealth-tax Act shall, so far as may be, apply for the purposes of this Act as they apply for the purposes of the Wealth-tax Act.

Jurisdiction
of courts.

52. No court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence under this Act.

2 of 1974.
20 of 1958.

53. Nothing contained in section 360 of the Code of Criminal Procedure, 1973, or in the Probation of Offenders Act, 1958, shall apply to a person convicted of an offence under this Act unless that person is under eighteen years of age.

Section 360 of the Code of Criminal Procedure, 1973, and the Probation of Offenders Act, 1958, not to apply.

54. (1) In any prosecution for any offence under this Act which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Presumption as to culpable mental state.

Explanation.—In this sub-section, “culpable mental state” includes intention, motive or knowledge of a fact, or belief in, or reason to believe, a fact.

(2) For the purposes of this section, a fact is said to be proved only when the court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

55. The provisions of section 36A of the Wealth-tax Act shall, so far as may be, apply for the purposes of this Act as they apply for the purposes of the Wealth-tax Act.

Power to tender immunity from prosecution.

56. (1) The Assessing Officer, Valuation Officer, Deputy Commissioner (Appeals), Commissioner (Appeals), Chief Commissioner or Commissioner and the Appellate Tribunal shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely:—

Power to take evidence on oath, etc.

(a) discovery and inspection;

(b) enforcing the attendance of any person, including any officer of a banking company and examining him on oath;

(c) compelling the production of books of account and other documents; and

(d) issuing commissions.

(2) Without prejudice to the provisions of any other law for the time being in force, where a person to whom a summons is issued either to attend to give evidence or produce books of account or other documents at a certain place and time, intentionally omits to attend or produce the books of account or documents at the place or time, the authority empowered to issue such summons may impose upon him such fine not exceeding five hundred rupees, as it thinks fit, and the fine so levied may be recovered in the manner provided in Chapter VI.

5 of 1908.

(3) Subject to any rules made in this behalf, any authority referred to in sub-section (1) may impound and retain in its custody for such period as it thinks fit any books of account or other documents produced before it in any proceeding under this Act:

Provided that an Assessing Officer or a Valuation Officer or an Assistant Director shall not—

(a) impound any books of account or other documents without recording his reasons for so doing, or

(b) retain in his custody any such books or documents for a period exceeding fifteen days (exclusive of holidays) without obtaining the approval of the Chief Commissioner or Director General or Commissioner or Director therefor, as the case may be.

(4) Any proceeding under this Act before a wealth (inheritance) duty authority or the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code.

45 of 1860.

Provisions relating to matters connected with powers of wealth (inheritance) duty authorities, valuation officers, publication and disclosure of information respecting accountable persons.

57. The provisions of sections 38, 38A, 39, 40, 41, 42A, 42B, 42C, 43, 44, 44A, 44B, 44C and 44D of the Wealth-tax Act shall, so far as may be, apply for the purposes of this Act as they apply for the purposes of the Wealth-tax Act.

Power to make rules.

58. (1) The Board may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which the orders relating to instructions to subordinate authorities shall be published and circulated for general information under sub-section (2) of section 13;

(b) the form in which returns under section 18 shall be made and the manner in which they shall be verified under that section;

(c) the other particulars which may have to be furnished in the return under sub-section (4) of section 21;

(d) the form in which appeals under sub-section (1) or sub-section (2) of section 30 may be made, and the manner in which they shall be verified;

(e) the form in which a memorandum of cross objections under sub-section (3) of section 31 shall be made and the manner in which it shall be verified;

(f) the form in which an appeal under sub-section (5) of section 31 shall be made and the manner in which it shall be verified;

(g) the form in which an appeal under section 33 shall be made and the manner in which it shall be verified;

(h) the form of any notice of demand under section 39;

(i) the form of any notice of demand under clause (c) of sub-section (3) of section 44;

(j) the form of any notice of demand under sub-section (5) of section 48;

(k) any other matter which by this Act is to be or may be prescribed.

(3) The power to make rules conferred by this section shall include the power to give retrospective effect from a date not earlier than the date of commencement of this Act to the rules or any of them and, unless the contrary is permitted (whether expressly or by necessary implication), no retrospective effect shall be given to any rule so as to prejudicially affect the interest of the accountable persons.

(4) The Central Government shall cause every rule made under this Act to be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

59. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, do anything not inconsistent with such provisions for the purpose of removing the difficulty:

Power to
remove
difficulties.

Provided that no such order shall be made after the expiration of three years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid before each House of Parliament.

SCHEDULE I

(See section 4)

Rates of wealth (inheritance) duty

In the case of net wealth which passes or is deemed to have passed on the death of the deceased—

- (1) where the net wealth does not exceed Rs. 2,50,000 Nil;

- | | |
|--|--|
| (2) where the net wealth exceeds Rs. 2,50,000 but does not exceed Rs. 10 lakhs | 2½ per cent. on the amount by which the net wealth exceeds Rs. 2,50,000; |
| (3) where the net wealth exceeds Rs. 10 lakhs but does not exceed Rs. 20 lakhs | Rs. 18,750 plus 5 per cent. of the amount by which the net wealth exceeds Rs. 10 lakhs; |
| (4) where the net wealth exceeds Rs. 20 lakhs | Rs. 68,750 plus 10 per cent. of the amount by which the net wealth exceeds Rs. 20 lakhs. |

SCHEDULE II

[See section 8 (1)]

RULES FOR DETERMINING THE VALUE OF ASSETS

The value of any asset other than cash for the purposes of this Act, shall be determined in accordance with the provisions of Schedule III to the Wealth-tax Act, which shall apply subject to the following modifications, namely:—

in the said Schedule,—

(a) the reference to “valuation date”, wherever it occurs, shall be construed as a reference to “date of death”;

(b) for the word “assessee”, wherever it occurs (except in rule 16, the word “deceased” shall be substituted, and such other consequential amendments as the rule of grammar may require, may also be made;

(c) reference to “wealth-tax”, wherever it occurs, shall be construed as a reference to “wealth (inheritance) duty”;

(d) in rule 3, the reference to section 7 of the Wealth-tax Act shall be construed as a reference to section 8 of this Act;

(e) in sub-item (iii) of item (a) of sub-rule (2) of rule 14, for the words “previous year relevant to the corresponding assessment year”, the words “previous year ending on the date of death” shall be substituted;

(f) in rule 16, the reference to section 5 shall be construed as a reference to section 5 of the Wealth-tax Act;

(g) rule 17 and rule 19 shall be omitted;

(h) in rule 18 and in sub-rule (2) of rule 20, reference to section 16A of the Wealth-tax Act shall be construed as a reference to section 22 of this Act.

STATEMENT OF OBJECTS AND REASONS

The levy of estate duty was abolished from the 16th March, 1985, so as to avoid any stress to the heirs at the time of their personal distress. However, there is a strong case on the ground of social justice for taxing the transfer of wealth through inheritance, especially where the volume of wealth involved is large. The Bill, therefore, proposes to impose a duty on the net wealth passing on the death of an individual, only where the individual was assessable to tax under the Wealth-tax Act, 1957 (27 of 1957) on the last valuation date immediately prior to his death.

2. The Bill is more or less based on the lines of the Wealth-tax Act, 1957 and the Estate Duty Act, 1953 and has the following salient features—

(i) the “wealth (inheritance) duty” will be levied on the net wealth passing on the death of an individual taking place after the commencement of the proposed legislation;

(ii) the interest of the deceased in the coparcenary property of any Hindu undivided family of which he was a member will be included in the net wealth;

(iii) in computing the net wealth for the purposes of this Act, the exemptions and deductions including the basic exemption of Rs. 2.5 lakhs available under the Wealth-tax Act shall be taken into consideration;

(iv) “wealth (inheritance) duty” will be levied at progressive rates which will be five times the rates of the wealth tax;

(v) separate exemption up to Rs. five lakhs in respect of residential house property belonging to the deceased which was exclusively used for his residential purposes will also be allowed subject to the condition that in such cases exemption relating to a house property which is allowed under the Wealth-tax Act along with other assets specified in sub-section (1A) of section 5 of that Act shall not be allowed;

(vi) for mitigating the hardship which may be caused on account of the proposed duty in case of successive deaths in quick succession, necessary relief is proposed.

3. The Bill also provides for all other matters relating to levy of interest filing of appeals rectification of mistakes, recovery of duty, imposition of penalty and prosecution and matters relating to procedure on the lines of the relevant provisions of the Wealth-tax Act.

NEW DELHI;

S. B. CHAVAN.

The 2nd May, 1989

FINANCIAL MEMORANDUM

Clause 11 of the Bill seeks to create wealth (inheritance) duty authorities for the purposes of the administration of the Act.

2. The creation of the posts of wealth (inheritance) duty authorities will involve a recurring expenditure of Rs. 30.22 lakhs on pay and allowances of officers and staff and other establishment expenses and a non-recurring expenditure of Rs. 9.4 lakhs on furniture and telephones, etc. However, for meeting this expenditure, matching savings will be provided by the Income tax Department and as such no amount shall be drawn from the Consolidated Fund of India for the administration of the Act.

3. The provisions of the Bill will not involve any other expenditure of a recurring or non-recurring nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 58 of the Bill authorises the Central Board of Direct Taxes to make rules with respect to matters like the manner in which the orders relating to instruction to subordinate authorities shall be published and circulated for general information, the form in which returns may be made under various provisions of the Act, the form in which appeals should be filed, the form in which a memorandum of cross objection under the Act shall be made and the form in which notices of demand should be issued.

2. Clause 59 of the Bill relates to power to remove difficulties. The provisions of the said clause empower the Central Government to make orders for removing any difficulty which may arise in giving effect to the provisions of the proposed legislation. It is also being provided that no such order shall be made after the expiration of three years from the date of commencement of the proposed legislation and every such order shall be laid before each House of Parliament.

3. The matters in respect of which the said rules or orders may be made are matters of procedure and administrative detail, and it is not practicable to provide them in the proposed legislation itself.

4. The delegation of legislative power is, therefore, of a normal character.

SUBHASH C. KASHYAP,
Secretary-General.

